

THE STATE OF NEW HAMPSHIRE

ATTORNEY GENERAL
GREGORY H. SMITH

DEPUTY ATTORNEY GENERAL
DEBORAH J. COOPER

ATTORNEYS
DANIEL J. MULLEN
JAMES D. CAHILL, III
RONALD F. RODGERS
JEFFREY R. HOWARD
G. DANA BISBEE
GREGORY W. SWOPE
PETER T. FOLEY
STEVEN M. HOURAN
EVE H. OYER
LESLIE LUDTKE



THE ATTORNEY GENERAL
STATE HOUSE ANNEX
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

ASSISTANT ATTORNEYS GENERAL
JOHN T. PAPPAS
E. TUPPER KINDER
JAMES E. TOWNSEND
ANNE R. CLARKE
MARC R. SCHEER
DONALD J. PERRAULT
MARTIN R. JENKINS
PETER W. MOSSEAU
BETSY S. WESTGATE
MARTHA V. GORDON
PETER C. SCOTT
EDWARD L. CROSS, JR.
MICHAEL A. PIGNATELLI
BRIAN T. TUCKER
PAUL BARBADORO
BRUCE E. MOHL
JOHN A. MALMBERG
DOUGLAS L. PATCH
LORETTA S. PLATT

March 14, 1983

Shirley Adamovich, State Librarian
New Hampshire State Library
20 Park Street
Concord, NH 03301

Dear Mrs. Adamovich:

You have requested our opinion on whether State agencies may charge the State Library for those publications which they are required to deposit with the State Librarian pursuant to RSA Chapter 202-B. For the reasons set forth below, our response is that State agencies may not charge the State Library for those publications.

RSA 202-B, which was enacted in 1973, requires that State agencies "print 25 copies of their publications for deposit with the State Librarian." RSA 202-B:2. These publications are then distributed to depository libraries. The depository libraries are required to "provide adequate facilities for the storage and use of the publications," and to "render reasonable service without charge to qualified patrons who desire to use the publications." RSA 202-B:5 (Emphasis added).

It is our understanding that all agencies deposited the requisite number of publications with the State Library until 1982 when Chapter 42:117, Laws of 1982, was enacted. This footnote in the 1982 Supplemental budget provided authority for State agencies to establish and collect fees for publications they produce and disseminate. (Emphasis added).

It is our opinion, however, that publications which are "deposited," or "placed ... especially (as for safekeeping...)," Webster's Third New International Dictionary, 1969, with the

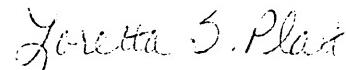


State Library pursuant to RSA Chapter 202-B cannot be considered to be "disseminated," or "spread or sent out freely or widely..." Webster's Third New International Dictionary, 1969, by those State agencies depositing them.

Moreover, because the obligation created in RSA 202-B is imposed upon all State agencies rather than the State Library, it is our opinion that Chapter 42:117, Laws of 1982, did not impose an additional obligation upon the State Library to purchase those publications referenced in RSA 202-B. The lack of any additional funding in the State Library's budget to fulfill the requirements of RSA 202-B provides additional support for the conclusion that State agencies may not impose a charge upon the State Library for those publications which they are required to deposit with the Library pursuant to RSA 202-B.

I trust this is responsive to your inquiry. Should you have any additional questions, please feel free to contact me.

Very truly yours,



Loretta S. Platt
Assistant Attorney General
Division of Legal Counsel

LSP/gla

82-83-I